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UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF WASHINGTON

In Re:
GIGA WATT, INC., a Washington corporation,
Debtor.
MARK D. WALDRON, as Chapter 7 Trustee,
Plaintiff,
vs.
PERKINS COIE, LLP, a Washington limited liability partnership; LOWELL NESS, individual and California resident; GIGA WATT PTE., LTD. a Singapore corporation; and ANDREY KUZENNY, a citizen of the Russian Federation;
Defendants
and
THE GIGA WATT PROJECT, a partnership,
Nominal defendant.

No. 18-03197-FPC11
The Honorable Frederick P. Corbit
CHAPTER 7
Adv. Case No. 20-80031

**APPELLANTS' DESIGNATION
OF RECORD AND
STATEMENT OF ISSUES ON
APPEAL**

APPELLANTS' DESIGNATION OF RECORD AND STATEMENT OF ISSUES ON APPEAL - 1

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1 Defendants/Appellants Perkins Coie, LLP and Lowell Ness (“Perkins Coie”),
2 under Title 11 of the United States Code, §§ 101 *et seq.* (the “Bankruptcy
3 Code”), in this adversary proceeding [Adv. Case No. 20-80031], by and through the
4 undersigned counsel, hereby file, pursuant to Bankruptcy Rule 8009, their Statement
5 of Issues to be Presented on Appeal and Designation of Items to be Included in the
6 Record on Appeal to the United States District Court for the Eastern District of
7 Washington on defendants’ appeal from the following orders of the Bankruptcy Court:
8

9 1. Order Granting Motion to Strike Jury Demand [Docket No. 49] entered
10 in Adversary Proceeding No. 20-80031 by the Bankruptcy Court, Honorable Frederick
11 P. Corbit, on April 22, 2021; and

12 2. Order Denying Perkins’ and Ness’ Motion to Compel Arbitration and
13 Stay [Docket No. 51] entered in Adversary Proceeding No. 20-80031 by the
14 Bankruptcy Court, Honorable Frederick P. Corbit, on April 22, 2021.
15

16 **I. STATEMENT OF ISSUES ON APPEAL**

17 1. Whether the Bankruptcy Court erroneously held that defendants did not have
18 a right to trial by jury, and improperly granted the Trustee’s motion and struck
19 defendants’ jury demand, because (a) the Trustee’s claims are legal, not equitable,
20 (b) the relief sought by the Trustee is legal, not equitable, (c) the Court erroneously
21 applied the law of trusts, (d) the Court erroneously analyzed claims that were not pled
22 and ignored the claims and allegations that were pled, (e) the Court improperly
23 considered and factored its own equitable role and powers into its analysis and
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1 decision, and (f) the Court erroneously disregarded and refused to apply controlling
2 precedent.
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4 2. Whether the Bankruptcy Court erroneously denied defendants' Motion to
5 Compel Arbitration and Stay because (a) defendants are entitled, under the Federal
6 Arbitration Act and relevant authorities interpreting and applying it, to enforce against
7 the Trustee (and the Debtor) the arbitration provisions of applicable token purchase
8 agreements, (b) the Court erroneously applied and/or failed to consider controlling
9 precedent regarding enforcement of arbitration agreements by non-signatories, and
10 (c) the Court erroneously fashioned a separate and distinct oral or implied escrow
11 agreement, and in doing so improperly made implicit findings of fact that were
12 premature at this stage of the proceedings, that were contrary to the allegations of the
13 Trustee's Complaint, and which, at minimum, were subject to limited discovery and a
14 trial by jury.
15
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17 **II. DESIGNATION OF ITEMS TO BE INCLUDED IN RECORD ON
18 APPEAL**

Designation No.	Date	ECF No.	Document Description
1	11/18/2020	1	DOCUMENT access restricted at filing party's request as document contains attorney-client privilege. See Docket 6 for redacted document. Adversary case 20-80031. COMPLAINT. Fee Amount \$350. (Attachments: # 1 Exhibit A) Nature of Suit: (14 (Recovery of money/property - other)) (02 (Other (e.g. other actions that would have been brought in state court if unrelated to bankruptcy))) (Egan, Pamela) Modified on 11/19/2020 (CMR).

Designation No.	Date	ECF No.	Document Description
			(Entered: 11/18/2020)
2	11/19/2020	6	COMPLAINT. Filed by Pamela Marie Egan on behalf of Mark D. Waldron against all defendants (Re: 1 Complaint). (Attachments: # 1 Exhibit A) (Egan, Pamela) DEPUTY Clerk Note: Redacted Adversary Complaint. Modified on 11/19/2020 (CMR). (Entered: 11/19/2020)
3	12/31/2020	17	MOTION to Withdraw Reference . Fee Amount \$188. Filed by John D Munding on behalf of Perkins Coie, LLP (Munding, John) (Entered: 12/31/2020)
4	12/31/2020	18	MEMORANDUM signed by John D. Munding, attorney for Defendants Perkins Coie, LLP and Lowell Ness. Filed by John D Munding on behalf of Perkins Coie, LLP (RE: Motion to Withdraw Reference17). (Munding, John) (Entered: 12/31/2020)
5	01/03/2021	19	CERTIFICATE of Service. Filed by John D Munding on behalf of Perkins Coie, LLP (RE: Motion to Withdraw Reference17, Memorandum 18). (Munding, John) (Entered: 01/03/2021)
6	01/07/2021	20	STATUS Report for Scheduling Conference 01/12/21; MOTION for Continuance of Deadline to File Scheduling Conference Report and Continuance of Scheduling Conference Pending Ruling by the District Court on Defendants' Motion for Order Granting Withdrawal of the District Court's Reference. Signed by the filer. Filed by John D. Munding on behalf of Lowell Ness, Perkins Coie, LLP. (Munding, John) DEPUTY Clerk Note: Motion for Continuance language added

APPELLANTS' DESIGNATION OF RECORD AND
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Designation No.	Date	ECF No.	Document Description
			to docket text. Modified on 1/8/2021 (NNU). (Entered: 01/07/2021)
7	01/12/2021	26	MINUTE Entry. Scheduling Conference/Motion to Continue. HELD. The court continued the scheduling conference to 1-29 at 10 a.m. by telephone conference call to (509) 353-3183 based upon the agreement of counsel. See Order Continuing Scheduling Conference for more details. Appearances: Pamela Egan, attorney for plaintiff; Mark Waldron, plaintiff; John Munding and Ralph Cromwell, attorneys for defendants Perkins Coie, LLP et al; Don Boyd, attorney for Andrey Kuzenny; and observing Dennis McGlothin and Timothy Blood, attorneys for Jun Dam, plaintiff, Federal District Court Case 20-00464-SAB. (related document(s): 4 Notice of Scheduling Conference, 17 Motion to Withdraw Reference filed by Perkins Coie LLP, 20 Status Report filed by Lowell Ness, Perkins Coie, LLP) (JKB) (Entered: 01/12/2021)
8	01/12/2021	27	ORDER CONTINUING SCHEDULING CONFERENCE: The parties will continue to meet and confer regarding consolidated discovery, jury trial issues, the removal of the related class action suit pending in District Court to this Court, and other matters. A report on such meeting will be filed by the plaintiff with this Court by noon on January 28, 2021. The scheduling conference has been continued to 10 a.m. on January 29, 2021, by telephone conference call to (509) 353-3183. Pursuant to the agreement of all parties, the date for transmittal of the withdrawal of the reference

APPELLANTS' DESIGNATION OF RECORD AND
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Designation No.	Date	ECF No.	Document Description
			documents to the District Court is continued until a reasonable time after the continued scheduling conference. Frederick P. Corbit, U.S. Bankruptcy Judge. This text entry constitutes the official order pursuant to LBR 9013-1(c)(4)(B). (RE: Minutes of Proceedings 26 , Notice of Scheduling 4, Status Report for Scheduling Conference; Motion for Continuance of Deadline to File Scheduling Conference Report and Continuance of Scheduling Conference 20). (JKB) (Entered: 01/12/2021)
9	01/13/2021	28	ANSWER to Complaint. Filed by Ralph E Cromwell Jr on behalf of Lowell Ness, Perkins Coie, LLP (RE: 6 Amended Complaint). (Cromwell, Ralph) (Entered: 01/13/2021)
10	01/14/2021	29	OBJECTION (RE: Motion to Withdraw Reference17). Filed by Pamela Marie Egan on behalf of Mark D. Waldron (Egan, Pamela) (Entered: 01/14/2021)
11	01/21/2021	30	REPLY signed by John D. Munding. Filed by John D Munding on behalf of Lowell Ness, Perkins Coie, LLP (RE: Motion to Withdraw Reference 17, Memorandum18, Objection 29). (Munding, John) (Entered: 01/21/2021)
12	01/28/2021	31	WRITTEN Report per FRCP 26. Filed by Ralph E Cromwell, Jr. on behalf of Lowell Ness, Perkins Coie, LLP. (Cromwell, Ralph) (Entered: 01/28/2021)
13	01/29/2021	34	MINUTE Entry. Continued Scheduling Conference. HELD. Based upon the agreement of counsel, the court scheduled a hearing on 3/25/21 at 1:30 p.m. via Zoom invitation/open court. An order will be issued setting out the

APPELLANTS' DESIGNATION OF RECORD AND
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Designation No.	Date	ECF No.	Document Description
			<p>dates/deadlines and matters to be heard at the continued hearing. Discovery will be stayed on this litigation for four weeks. (re: 4 Notice of Scheduling Conference, 17 Motion to Withdraw Reference filed by Perkins Coie, LLP) Appearances: Pamela Marie Egan, attorney for plaintiff; Mark Waldron, trustee/plaintiff; Ralph E. Cromwell and John Munding, attorneys for defendants Perkins Coie, LLP and Lowell Ness; and Tommy O'Reardon, attorney for Jun Dam, et al, plaintiffs in Federal District Court Case 20-00464-SAB. (JKB) (Entered: 01/29/2021)</p>
14	02/01/2021	35	<p>ORDER SETTING BRIEFING SCHEDULE AND CONTINUED HEARING: Pursuant to the agreement of counsel, the following dates and deadlines were set: Plaintiff may file a motion to strike jury demand and a motion for determination of core non-core issues no later than 2/5/21; Defendants Perkins Coie, LLP and Lowell Ness may file any further responses and a motion to compel arbitration no later than 2/26/21; Plaintiff may file any response to motion to compel arbitration no later than 3/12/21; Defendants Perkins Coie, LLP and Lowell Ness may reply to any objection no later than 3/19/21; and Discovery in this litigation is stayed until 2/26/21. A hearing is scheduled to commence on the oral argument on the issues 3/25/21 at 1:30 p.m. via Zoom invitation. SO ORDERED.</p> <p>Frederick P. Corbit, U.S. Bankruptcy Judge.</p> <p>This text entry constitutes the official order pursuant to LBR 9013-1(c)(4)(B). (RE: 4 Notice of Scheduling Conference, 34 Minutes of Proceedings, 17 Motion to Withdraw the</p>

APPELLANTS' DESIGNATION OF RECORD AND
STATEMENT OF ISSUES ON APPEAL - 7

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Designation No.	Date	ECF No.	Document Description
			Reference). (JKB) (Entered: 02/01/2021)
15	02/05/2021	36	MOTION to Strike Jury Demand (RE: 28 Answer to Complaint). Filed by Pamela Marie Egan on behalf of Mark D. Waldron (Egan, Pamela) DEPUTY Clerk Note: Jury Demand added to docket text. Modified on 3/1/2021 (NNU). (Entered: 02/05/2021)
16	02/05/2021	37	MEMORANDUM signed by Pamela M. Egan. Filed by Pamela Marie Egan on behalf of Mark D. Waldron (RE: Motion to Strike 36). (Egan, Pamela) (Entered: 02/05/2021)
17	02/05/2021	38	MOTION for a Determination That Proceeding is Core. Filed by Pamela Marie Egan on behalf of Mark D. Waldron (Egan, Pamela) DEPUTY Clerk Note: Docket text clarified to match pdf. Modified on 2/8/2021 (NNU). (Entered: 02/05/2021)
18	02/05/2021	39	MEMORANDUM signed by Pamela M. Egan. Filed by Pamela Marie Egan on behalf of Mark D. Waldron (RE: MOTION in Limine 38). (Egan, Pamela) (Entered: 02/05/2021)
19	02/26/2021	40	MOTION to Compel Arbitration and Stay. Filed by Ralph E. Cromwell, Jr. on behalf of Lowell Ness, Perkins Coie, LLP (Cromwell, Ralph) (Entered: 02/26/2021)
20	02/26/2021	41	RESPONSE/Opposition signed by Ralph E. Cromwell, Jr. (RE: Motion to Strike 36). Filed by Ralph E. Cromwell Jr on behalf of Lowell Ness, Perkins Coie, LLP (Cromwell, Ralph) DEPUTY Clerk Note: Opposition added to docket text. Modified on 3/1/2021 (NNU). (Entered: 02/26/2021)
21	02/26/2021	42	RESPONSE/Opposition signed by Ralph E.

APPELLANTS' DESIGNATION OF RECORD AND
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Designation No.	Date	ECF No.	Document Description
			Cromwell, Jr. (RE: MOTION in Limine 38). Filed by Ralph E. Cromwell, Jr. on behalf of Lowell Ness, Perkins Coie, LLP (Cromwell, Ralph) DEPUTY Clerk Note: Opposition added to docket text. Modified on 3/1/2021 (NNU). (Entered: 02/26/2021)
22	02/26/2021	43	DECLARATION signed by Ralph E. Cromwell, Jr.. Filed by Ralph E. Cromwell, Jr. on behalf of Lowell Ness, Perkins Coie, LLP (RE: Motion to Strike 36, MOTION in Limine 38, Motion to Compel 40). (Attachments: # 1 Exhibit 1 # 2 Exhibit 2 # 3 Exhibit 3 # 4 Exhibit 4 # 5 Exhibit 5 # 6 Exhibit 6) (Cromwell, Ralph) (Entered: 02/26/2021)
23	03/12/2021	44	OBJECTION to Motion to Compel Arbitration and Stay (Filed as MEMORANDUM signed by Pamela M. Egan and corrected by court). Filed by Pamela Marie Egan on behalf of Mark D. Waldron (RE: Motion to Compel 40). (Egan, Pamela) Modified on 3/16/2021 (NNU). (Entered: 03/12/2021)
24	03/19/2021	46	REPLY signed by Ralph E. Cromwell, Jr. (RE: Motion to Compel 40). Filed by Ralph E Cromwell Jr on behalf of Lowell Ness, Perkins Coie, LLP (Cromwell, Ralph) (Entered: 03/19/2021)
25	03/25/2021	48	MINUTE Entry. Motions. HELD. The court hearing argument of counsel and took the matters under advisement. The Motion to Withdraw the Reference and Scheduling Conference are continued to a date to be fixed. Appearances: Pamela Marie Egan, attorney for plaintiff; Mark Waldron, trustee/plaintiff; Ralph E. Cromwell, John Munding, and Jofrey

APPELLANTS' DESIGNATION OF RECORD AND
STATEMENT OF ISSUES ON APPEAL - 9

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Designation No.	Date	ECF No.	Document Description
			McWilliam, attorneys for defendants Perkins Coie, LLP and Lowell Ness; and Don Boyd, attorney for Andrey Kuzenny. (RE: Scheduling Conference 4, Motion to Withdraw Reference 17, Motion to Strike Jury Trial 36, MOTION for Determination That Proceeding is Core 38, Motion to Compel Arbitration and Stay 40). (JKB) (Entered: 03/25/2021)
26	04/22/2021	49	ORDER Granting Motion to Strike Jury Demand (Re: # 36) . (JL) (Entered: 04/22/2021)
27	04/22/2021	50	ORDER Denying MOTION for a Determination That Proceeding is Core (Re: # 38). (JL) (Entered: 04/22/2021)
28	04/22/2021	51	ORDER Denying Motion to Compel Arbitration and Stay (RE: 40) . (JL) (Entered: 04/22/2021)
29	04/27/2021	56	TRANSMITTAL of Motion for Withdrawal of Reference. Motioning Party(ies): John D Munding on behalf of Perkins Coie, LLP. Responding Party(ies): Pamela Marie Egan on behalf of Mark D. Waldron. Case County: Douglas County. RE: Motion to Withdraw Reference 17 Memorandum 18 Certificate of Service 19 Reply 30). (NNU). Deputy Clerk Note: Entry corrected and Rels added. Modified on 4/28/2021 (KAC). (Entered: 04/27/2021)
30	04/29/2021	57	CD Request by Transcriptionist: Gina Cozza, Invisible Business Solutions (RE: Minutes of Proceedings 26, Minutes of Proceedings 34, Minutes of Proceedings 48). (JRG) (Entered: 04/29/2021)
31	05/04/2021	60	MINUTE Entry. Status on Case. HELD.

APPELLANTS' DESIGNATION OF RECORD AND
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Designation No.	Date	ECF No.	Document Description
			<p>Discussion ensued as to the pending District Court cases and discovery issues. Counsel indicated a hearing is scheduled before Judge Bastian on the Motion to Withdraw the Reference on 6/13 at 1:30 p.m. and in the class action case defendants may file a motion to compel arbitration on or before 6/11. Defendants will be appealing the jury and arbitration orders in this case. The court set a status conference via Zoom invitation on 6/23 at 11:00 a.m. The court ordered counsel to meet and confer in May and required Plaintiff's counsel to file a status report be filed by 6/18, and any responses or comments by Defendants to be filed 2 days prior to the hearing. There is no stay on discovery in this case. Appearances: Pamela Egan, attorney for plaintiff; Mark Waldron, plaintiff; Jofrey M. McWilliam and John Munding; attorney for defendant Perkins Coie, et al. Don Boyd, attorney for defendant Andrey Kuzenny; and Timothy Blood and Dennis McGlothin, attorneys for Jun Dam, et al, plaintiffs in Federal District Court Case 20-00464-SAB. (re: 58 Notice of Hearing/Status on Case 4 Notice of Scheduling Conference). (JKB) (Entered: 05/05/2021)</p>
32	05/06/2021	61	NOTICE of Appeal and Statement of Election to District Court. Fee Amount \$298. Filed by John D. Munding on behalf of Lowell Ness, Perkins Coie, LLP (RE: 49 Order to Strike, 51 Order on Motion to Compel). (Munding, John) (Entered: 05/06/2021)
33	05/06/2021	62	MOTION for Leave to Appeal. Filed by John D. Munding on behalf of Lowell Ness, Perkins

APPELLANTS' DESIGNATION OF RECORD AND
STATEMENT OF ISSUES ON APPEAL - 11

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Designation No.	Date	ECF No.	Document Description
			Coie, LLP (Munding, John) (Entered: 05/06/2021)
34	05/07/2021	63	Notice of Appeal and Motion for Leave to Appeal Transmittal to District Court. Appellant(s): Perkins Coie, LLP, and Lowell Ness. Appellee(s): Mark Waldron, Chapter 7 Trustee. Case County: Douglas. Date Notice of Appeal Filed: 5/06/2021. Date of Entry of Order(s) on Appeal: 4/22/2021. Date Bankruptcy Case Filed: 11/18/2020. Fee Paid: Yes. Transmittal of Notice of Appeal mailed N/A to N/A. All other parties, including the US Trustee, were electronically served. (RE: Order to Strike 49, Order on Motion to Compel 51, Notice of Appeal and Statement of Election 61, Motion for Leave to Appeal 62). Certificate of Record due by 6/28/2021. (NNU) DEPUTY Clerk Note: Docket text clarified to include Motion for Leave to Appeal. Modified on 5/7/2021 (NNU). (Entered: 05/07/2021)
35	05/08/2021	64	CERTIFICATE of Service. Filed by John D Mundung on behalf of Perkins Coie, LLP (RE: Notice of Appeal and Statement of Election 61, Motion for Leave to Appeal 62). (Munding, John) (Entered: 05/08/2021)
36	05/16/2021	65	VERBATIM Report/Transcript from hearing held on 01/12/2021. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 08/16/2021. Until that time the transcript may be viewed at the Bankruptcy Court. For information about how to contact the

APPELLANTS' DESIGNATION OF RECORD AND
STATEMENT OF ISSUES ON APPEAL - 12

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Designation No.	Date	ECF No.	Document Description
			<p>transcriber, call the Clerk's Office. (RE: related document(s) 26 MINUTE Entry. Scheduling Conference/Motion to Continue. HELD. The court continued the scheduling conference to 1-29 at 10 a.m. by telephone conference call to (509) 353-3183 based upon the agreement of counsel. See Order Continuing Scheduling Conference for more details. Appearances: Pamela Egan, attorney for plaintiff; Mark Waldron, plaintiff; John Munding and Ralph Cromwell, attorneys for defendants Perkins Coie, LLP et al; Don Boyd, attorney for Andrey Kuzenny; and observing Dennis McGlothin and Timothy Blood, attorneys for Jun Dam, plaintiff, Federal District Court Case 20-00464-SAB. (related document(s): 4 Notice of Scheduling Conference, 17 Motion to Withdraw Reference filed by Perkins Coie, LLP, 20 Status Report filed by Lowell Ness, Perkins Coie, LLP) (JKB)). Notice of Intent to Request Redaction Deadline Due By 5/24/2021. Redaction Request Due By 06/7/2021. Redacted Transcript Submission Due By 06/16/2021. Transcript access will be restricted through 08/16/2021. (Cozza, Gina) (Entered: 05/16/2021)</p>
37	05/16/2021	66	<p>VERBATIM Report/Transcript from hearing held on 01/29/2021. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 08/16/2021. Until that time the transcript may be viewed at the Bankruptcy Court. For information about how to contact the transcriber, call the Clerk's Office. (RE: related</p>

APPELLANTS' DESIGNATION OF RECORD AND
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Designation No.	Date	ECF No.	Document Description
			<p>document(s) 34 MINUTE Entry. Continued Scheduling Conference. HELD. Based upon the agreement of counsel, the court scheduled a hearing on 3/25/21 at 1:30 p.m. via Zoom invitation/open court. An order will be issued setting out the dates/deadlines and matters to be heard at the continued hearing. Discovery will be stayed on this litigation for four weeks. (re: 4 Notice of Scheduling Conference, 17 Motion to Withdraw Reference filed by Perkins Coie, LLP) Appearances: Pamela Marie Egan, attorney for plaintiff; Mark Waldron, trustee/plaintiff; Ralph E. Cromwell and John Munding, attorneys for defendants Perkins Coie, LLP and Lowell Ness; and Tommy O'Reardon, attorney for Jun Dam, et al, plaintiffs in Federal District Court Case 20-00464-SAB. (JKB)). Notice of Intent to Request Redaction Deadline Due By 5/24/2021. Redaction Request Due By 06/7/2021. Redacted Transcript Submission Due By 06/16/2021. Transcript access will be restricted through 08/16/2021. (Cozza, Gina) (Entered: 05/16/2021)</p>
38	05/16/2021	67	<p>VERBATIM Report/Transcript from hearing held on 03/25/2021. THIS TRANSCRIPT WILL BE MADE ELECTRONICALLY AVAILABLE TO THE GENERAL PUBLIC 90 DAYS AFTER THE DATE OF FILING. TRANSCRIPT RELEASE DATE IS 08/16/2021. Until that time the transcript may be viewed at the Bankruptcy Court. For information about how to contact the transcriber, call the Clerk's Office. (RE: related document(s) 48 MINUTE Entry. Motions. HELD. The court hearing argument of counsel</p>

APPELLANTS' DESIGNATION OF RECORD AND
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Designation No.	Date	ECF No.	Document Description
			and took the matters under advisement. The Motion to Withdraw the Reference and Scheduling Conference are continued to a date to be fixed. Appearances: Pamela Marie Egan, attorney for plaintiff; Mark Waldron, trustee/plaintiff; Ralph E. Cromwell, John Munding, and Jofrey McWilliam, attorneys for defendants Perkins Coie, LLP and Lowell Ness; and Don Boyd, attorney for Andrey Kuzenny. (RE: Scheduling Conference4, Motion to Withdraw Reference 17, Motion to Strike Jury Trial 36, MOTION for Determination That Proceeding is Core 38, Motion to Compel Arbitration and Stay 40). (JKB)). Notice of Intent to Request Redaction Deadline Due By 5/24/2021. Redaction Request Due By 06/7/2021. Redacted Transcript Submission Due By 06/16/2021. Transcript access will be restricted through 08/16/2021. (Cozza, Gina) (Entered: 05/16/2021)

DATED this 20th day of May, 2021.

BYRNES KELLER CROMWELL LLP

By /s/ Bradley S. Keller

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By /s/ Ralph E. Cromwell, Jr.

Ralph E. Cromwell, Jr., WSBA #11784

By /s/ Jofrey M. McWilliam

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APPELLANTS' DESIGNATION OF RECORD AND
STATEMENT OF ISSUES ON APPEAL - 15

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MUNDING, P.S.

By /s/ John Munding

John Munding, WSBA #21734

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Attorneys for Perkins Coie LLP and Lowell Ness

APPELLANTS' DESIGNATION OF RECORD AND
STATEMENT OF ISSUES ON APPEAL - 16

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2 CERTIFICATE OF SERVICE
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7 I hereby certify that on this 20th day of May, 2021, I caused to be electronically
8 filed the foregoing with the Clerk of the Court using the CM/ECF System, which in
9 turn automatically generated a Notice of Electronic Filing (NEF) to all parties in the
10 case who are registered users of the CM/ECF system. The NEF for the foregoing
11 specifically identifies recipients of electronic notice.
12

13
14 By /s/ Ralph E. Cromwell, Jr.
15 Ralph E. Cromwell, Jr.
16 *Attorneys for Plaintiffs*
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APPELLANTS' DESIGNATION OF RECORD AND
STATEMENT OF ISSUES ON APPEAL - 17

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